

CORRECTED FISCAL NOTE

HB 3059 - SB 3042

February 22, 2008

SUMMARY OF BILL: Increases the penalty for any person consuming alcoholic beverages while driving a motor vehicle from a Class C misdemeanor to a Class B misdemeanor. Prohibits any person within the passenger area of a motor vehicle from possessing an open container of an alcoholic beverage. Creates a Class C misdemeanor for any such violation.

ESTIMATED FISCAL IMPACT:

On January 28, 2009, we issued a fiscal note for this bill with an estimated increase in state revenue of \$92,600 and an estimated increase in local revenue of \$4,900. Based on additional information received, the fiscal impact of this bill is estimated as follows:

(CORRECTED)

Increase State Revenue - \$92,600

**Increase State Expenditures - \$9,700/One-Time
\$82,100/Recurring**

Increase Local Revenue - \$4,900

Increase Local Expenditures – Not Significant

Assumptions:

- The provision prohibiting the possession of an open container of an alcoholic beverage in the passenger area of a vehicle does not apply to motor homes, house trailers, buses, limousines, etc.
- According to the Department of Safety (DOS), applying the open container law to all vehicle occupants would increase the number of persons convicted annually.
- According to DOS, there are approximately 650 convictions each year for driving while consuming alcoholic beverages.
- Average fine for the Class C misdemeanor offense under current law is estimated to be \$50.
- The average fine for this Class B misdemeanor offense under the proposed bill is estimated to be \$200.
- No additional time of incarceration for current convictions of persons driving while consuming alcoholic beverages.

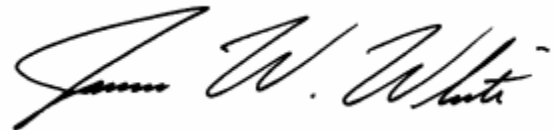
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CORRECTED

- The DOS estimates an additional 650 convictions per year for persons in possession of an open container of an alcoholic beverage while occupying the passenger area of a vehicle.
- Average fine for the Class C misdemeanor offense is estimated to be \$50.
- The increase of fines issued is estimated to be \$130,000 [(650 violations x \$150 increase) + (650 violations x \$50) = \$130,000] per year.
- 25% of fines issued will not be collected due to indigence.
- The total increase of violation revenue is estimated to be \$97,500 (\$130,000 x 75% = \$97,500) per year.
- County clerks receive 5% of violation revenue.
- The increase to local government revenue is estimated to be \$4,900 (\$97,500 x 5% = \$4,875) per year.
- The increase to state revenue is estimated to be \$92,600 (\$97,500 - \$4,900 local share = \$92,600) per year.
- The overwhelming majority of persons convicted of possessing open containers of alcoholic beverages while occupying passenger areas of vehicles are not expected to receive any time of incarceration. Any increase to local government expenditures from additional time of incarceration for these individuals is expected to be not significant.
- According to the District Public Defenders Conference, approximately 65% of the additional 650 convictions (423) would require representation from public defenders. Therefore, one additional attorney position would be required to handle the additional case load. The increase of one-time state expenditures for the creation of the additional position is estimated to be \$9,700 (computer, software, communications, supplies, etc.). The recurring increase to state expenditures is estimated to be \$82,100 per year (salary, benefits, etc.).

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/rnc